

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 129 OF 2020

1. Jagadip S/o. Vasant Dipake
Age : 25 years, Occu : Education,
2. Mohan S/o. Madan Dipake
Age : 35 years, Occupation : Agril
Both R/o. Dudhala, Tq. Aundha
(Nag. Dist. Hingoli)

.... APPLICANTS

VERSUS

1. The State of Maharashtra
Through Police Station Aundha (Nag.)
Tq. Aundha (Nag.) Dist. Hingoli
2. Ku. Shivani D/o. Sudhir Giri,
Age: 14 Years, Occ. Education,
Minor Through Guardian
Sudhir S/o. Kailas Giri,
Age : 40 Years, Occ. Agril,
R/o. Dughala, Tq. Aundha Nag.
Dist. Hingoli

.... RESPONDENTS

Shri. D. M. Shinde, Advocate for the applicants
Shri. M. M. Nerlikar, APP for the respondent/State
Shri. M. P. Kale, Advocate for respondent No. 2

**CORAM : T. V. NALAWADE &
M. G. SEWLIKAR, JJ.**

DATED : 14-01-2021

ORAL ORDER (PER :- M. G. SEWLIKAR, J.)

1. By this application under Section 482 of the Code of Criminal Procedure, applicants are seeking quashing of the FIR.

2. The informant, respondent No. 2 herein lodged the FIR on 08/11/2019 alleging that she was taking education in 9th standard at the time of lodging FIR. Applicant Nos. 1 and 2 are known to her. On 23/10/2019 at 06.30 a.m. she was at the bus stand waiting for the bus Dudhala to go to

Hingoli to appear for examination at Surajdevi Bhikulal Vidyalaya, Hingoli. At that time applicant Nos. 1 and 2 came there on motorcycle. At that time, Gajanan Dattarao Pawar alighted from the motorcycle and said to her that he likes her very much and pressed her both the breasts. At that time applicant No. 1 said to him to press them again and also uttered indecent words "क्या माल है बॉस" and started laughing. Applicant No. 2 also started laughing. All the three of them threatened her of dire consequences, if she disclosed this incident to anyone. She has further alleged that they had eve-teased her in the past also. On the basis of this FIR offence under Sections 354, 354(A), 506 read with 34 of the Indian Penal Code and under Sections 7, 8, 11 and 12 of the Protection of Children From Sexual Offences Act (POCSO) came to be registered against the applicants.

3. Heard Shri. Shinde, learned counsel for the applicants, Shri. Nerlikar, learned APP for the State and Shri. Kale, learned counsel for respondent No. 2.

4. Shri. Shinde submitted that there is gross delay in lodging the FIR. The incident occurred on 23/10/2019, whereas FIR was lodged on 08/11/2019. He argued that applicant No. 1 has filed an application on 22/08/2019 in the office of Tahasildar, Aundha (Nagnath) against the grandfather of the informant respondent No. 2 for grabbing the land gat Nos. 21 and 22 belonging to Dattatraya Devasthan. He further argued that both the applicants have moved the Collector, Hingoli for restoration of possession to the Devasthan of the land which is in illegal possession of grandfather of the informant respondent No. 2. Being aggrieved by this complaint, this false

FIR has been lodged. He further submitted that the delay in lodging report casts doubt on the authenticity of the contents of the FIR. He submitted that so far as applicant No. 2 is concerned vague allegation is made that applicant No. 2 started laughing and gave instigation.

5. With the assistance of learned counsel for the applicants Shri. Shinde, learned APP Shri. Nerlikar and learned counsel Shri. Kale for respondent No. 2, we have carefully gone through the FIR and the papers of investigation. So far as applicant No. 1 is concerned it is specifically alleged that he had instigated Gajanan Pawar to press the breasts of the informant and had also uttered indecent words saying “क्या माल है बॉस”. These allegations themselves show that he instigated applicant No. 1 to violate the modesty of informant. So far as applicant No. 2 is concerned there is specific allegation that on watching the incident he started laughing. When a minor girl is being molested, applicant No. 2 not only did not leave that place but started laughing itself is an indication of the fact that he also instigated the said Gajanan Pawar for violation of her modesty. Having regard to these specific allegations, we are not inclined to grant any relief to applicant Nos. 1 and 2. In view of this, application is dismissed.

6. These observations are made only for the disposal of this application. Trial Court need not get influenced by these observations and can come to its independent conclusion.

[M. G. SEWLIKAR, J.]

[T. V. NALAWADE , J.]